

(1996) 09 KL CK 0064
In the High Court Of Kerala
Case No : W.A. No. 1154 of 1996

Raghavan, K.

APPELLANT

Vs

Joint Registrar of Co-operative Societies and Another

RESPONDENT

Date of Decision : 02-09-1996

Acts Referred:

Citation : (1996) 09 KL CK 0064

Hon'ble Judges : S. Krishnan Unni, J;K.G. Balakrishnan, J

Bench : Division Bench

Advocate : V. Giri, for the Appellant;

Judgement

K.G. Balakrishnan, J.—The Petitioner in O.P. No. 13397/96 is the Appellant. Petitioner is a member of the Board of Directors of the Cannanore Co-operative Hospital Society. The first Respondent issued a notice u/s 32 of the Kerala Co-operative Societies Act, 1969 (for short "the Act") to the President of the Co-operative Society to show cause why the Board of Directors should not be superseded. According to the Petitioner, he was not given any notice u/s 32(1) of the Act and as he is a member of the Board of Directors, he is entitled to get a notice regarding the supersession. Therefore, he filed the Original Petition praying that the first Respondent shall be directed to issue notice to the Petitioner stating the grounds on which the first Respondent proposes to take action u/s 32 of the Act. Learned Single Judge declined to grant the relief sought for and dismissed the Original Petition. This Writ Appeal is directed against that judgment.

2. We heard Counsel for the Appellant. It was contended before us that u/s 32(1) of the Act, the first Respondent was bound to give notice u/s 32(1) to each member of the Board of Directors of the Society. Section 32(1) of the Act reads as follows:

32. Supersession of Committee.- (I) If the Registrar is satisfied that the Committee of any society persistently makes default or is negligent in the

performance of the duties imposed on it by this Act or the rules or bye-laws or commits any act which is prejudicial to the interests of the society or wilfully disobeys or wilfully fails to comply with any lawful order or direction issued under this Act or the rules, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing remove the committee and....

On going by the section there is no provision to give separate notice to each member of the Board of Directors. Notice is to be given to the committee and it is the committee which has to raise its objections, if any, against the proposed supersession. Admittedly, notice was issued to the President of the Committee. It is important to note that the Petitioner has no case that the President is acting against the interest of either the Petitioner or other members of the Society. Normally the President will bring it to the notice of the other members of the Committee that he had received a notice from the first Respondent u/s 32(1) of the Act and it is for the Committee to give suitable reply or objections to the proposed supersession

3. Learned Counsel for the Appellant further contended that if any supersession order is passed pursuant to Section 32(1) notice, the persons, who are members of the superseded Board of Directors, are not entitled to re-elect as members of the Board of Directors for a period of one year as per Rule 44(k) of the Kerala Co-operative Societies Rules, 1969. It is contended that if any supersession order is passed, it would visit the Petitioner with civil consequence and, therefore, he is entitled to get notice. Of course, Petitioner has a right to get notice. But as he is a member of the Committee, the notice will be received through the President of the Committee. So long as there is no individual right of notice u/s 32(1) of the Act, it cannot be said that the Petitioner should be issued with separate notice.

4. Reliance was placed on the decision reported in S.L. Kapoor Vs. Jagmohan and Others, . That is a case where the Delhi Municipal Committee was superseded by an order passed u/s 238(1) of the Punjab Municipal Act. u/s 238(1) of the Punjab Municipal Act, no notice was required to be given to the Committee before any supersession order is passed by the State Government. The supersession order was challenged before the High Court and the High Court held that the Committee was not entitled to get any notice. But the Supreme Court held that there was violation of the principles of natural justice. It was held that:

On a consideration of the entire material placed before us we do not have any doubt that the New Delhi Municipal Committee was never put on notice of any action proposed to be taken u/s 238 of the Punjab Municipal Act and no opportunity was given to the Municipal Committee to explain any fact or circumstance on the basis of which that action was proposed. If there was any correspondence between the New Delhi Municipal Committee and any other authority about the subject matter or any of the allegations, if information was given and gathered it was for entirely different purposes. In our view, the requirement of natural justice are met only if opportunity to represent is given in

view of proposed action.

That was a case where no notice was issued to the Municipal Committee before the order of supersession was passed by the authority. Here notice is already given to the President of the Committee and the Petitioner is aware of such notice. It is for the Petitioner to raise his objections before the Committee and in the nature of the working of the Committee every proceedings are discussed in the Committee and the matter is decided in the form of resolution. The Petitioner will get an opportunity to raise his objections before the Committee and the Committee has to deliberate on the issue and may submit reply in the matter.

We do not find any merit in the Writ Appeal and it is dismissed.